

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 6, 2007 has been entered.

Election/Restrictions

This application contains claims 2, 6 – 10, 13 – 15 and 17 – 20 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 11 – 12 and 21 are rejected under 35 U.S.C. 102(a) as anticipated by WO 98/42285.

With respect to claim 1, WO 98/42285 (hereinafter '285) discloses a sanitary napkin (20) comprising an elongate absorbent body having front and rear end portion, and an intermediate central portion (figure 1) and a pair of left and right rear wing portions (24,25), said left and right wing portion extending along the entire left and right sides of the absorbent body (figure 1) wherein a rearmost portion of each said left and right wing portions terminate at and is co-extensive with a rearmost portion of said rear end portion of the elongate absorbent body (figure 1), each said left and right wing portions extending laterally from said rear end portion of said elongate absorbent body (42) such that a lateral extent of each said left and right wing portions is spaced a distance from said elongate absorbent body (figures 1, 3 and 6), said distance decreasing from said rear end portion toward an intermediate central portion of said elongate absorbent body (figure 1), and wherein each of the left and right wing portions includes a liquid retentive wing portion absorbent core that comprises embossed absorption paper, and after 1 minute after dropping 1g of a physiological solution of sodium chloride from about 1 cm above the absorbent core under conditions of 20°C and humidity of 65%, the solution disperses to an area of the wing portion absorbent core measuring no larger than 80cm² as set forth on page 11, 2nd paragraph.

The examiner contends that on page 11, 2nd paragraph, '285 discloses that the components can be assembled as taught in Ahr (US 4,321,924). Ahr discloses an absorption paper (36) that is affixed to the inner surface (34) of the topsheet (12) as set

forth in col. 9, lines 15 – 19. Likewise, Ahr discloses that this combination of layers is embossed as set forth in col. 4, lines 40 – 43. As such, the disclosed napkin is structurally identical to the claimed invention, and one can reasonably presume that the disclosed article of will produce the same results when tested according to the applicant's disclosure.

As to claim 11, '285 discloses a sanitary napkin wherein the wing portion absorbent core extends substantially an entire length of the sanitary napkin as set forth in figure 1.

With reference to claim 12, '285 through the incorporation of Ahr discloses a sanitary napkin wherein each of wing portions includes a liquid permeable topsheet (12) and a liquid impermeable backsheet (14) with the liquid retentive wing portion absorbent core (36) located therebetween, said liquid retentive wing portion absorbent core extending substantially an entire width of the sanitary napkin in partial overlapping relationship with the elongate absorbent body as set forth in figure 2.

As to claim 21, '285 discloses a sanitary napkin wherein the left and right wing portions include portion (24) disposed between said intermediate central portion and said front end portion of the elongate body which extend laterally from the elongate absorbent body a distance greater than the left and right wing portions extend laterally from the elongate absorbent body adjacent the intermediate central portion (inwardly curved portion) and the front rear portion as set forth in figure 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/42285.

The difference between '285 and claim 4 is the provision that the embossments are in a specific pattern.

As set forth in the rejection of claim 1, '285 discloses embossments. With respect to the specific pattern of the embossments, the examiner contends that it would have been obvious to one of ordinary skill in the art to modify the embossments as desired in order to determine the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range is within the level of ordinary skill in the art. The examiner further notes that the instant specification states that the embossing pattern is not particularly limited as disclosed on page 7, lines 2 – 3. The purpose of the embossments is to prevent liquid from dispersing in one direction and this same objective will be achieved by '285.

Claim 5 is rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO 98/42285.

With respect to claim 5, '285 and the incorporation of Ahr disclose the claimed absorbent paper which would presumably render the same test results if subjected to the claimed test.

Alternatively, '285 discloses wings with zones of extensibility as set forth on page 13, 2nd paragraph. As noted in this section, these zones help to eliminate bunching of the flaps and would be within the level of ordinary skill in the art to modify in order to determine the most effective product.

Response to Arguments

Applicant's arguments with respect to claims 1, 4 – 5, 11 – 12 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Kidwell/
Primary Examiner, Art Unit 3761